

HOUSE BILL NO. 263

INTRODUCED BY A. REGIER

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING INSURANCE COVERAGE FOR REFILL OF PRESCRIPTION EYEDROPS UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTIONS 2-18-704, 33-31-111, AND 33-35-306, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Coverage for refill of eyedrops. (1) Each group or individual policy, certificate of disability insurance, subscriber contract, membership contract, or health care services agreement that provides coverage of prescription eyedrops may not deny coverage for a refill of a prescription eyedrop if:

(a) the eyedrop is a covered benefit under the policy, contract, or agreement;

(b) the prescriber indicates on the original prescription that additional quantities are needed;

(c) the refill requested by the insured does not exceed the number of additional quantities needed;

and

(d) (i) an amount of time has passed in which the insured should have used 70% of the dosage unit of the drug according to the prescriber's instructions; or

(ii) (A) 21 days have passed since a 30-day supply of the eyedrop was dispensed;

(B) 42 days have passed since a 60-day supply of the eyedrop was dispensed; or

(C) 63 days have passed since a 90-day supply of the eyedrop was dispensed.

(2) (a) Coverage under this section may be subject to deductibles, coinsurance, and copayment provisions and to utilization review as provided in Title 33, chapter 32.

(b) Special deductible, coinsurance, copayment, or other limitations that are not generally applicable to other medical care covered under the plan may not be imposed on the coverage under this section.

Section 2. Section 2-18-704, MCA, is amended to read:

1 **"2-18-704. Mandatory provisions.** (1) An insurance contract or plan issued under this part must

2 contain provisions that permit:

3 (a) the member of a group who retires from active service under the appropriate retirement
4 provisions of a defined benefit plan provided by law or, in the case of the defined contribution plan provided in
5 Title 19, chapter 3, part 21, a member with at least 5 years of service and who is at least age 50 while in
6 covered employment to remain a member of the group until the member becomes eligible for medicare under
7 the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, unless the member is a participant in another
8 group plan with substantially the same or greater benefits at an equivalent cost or unless the member is
9 employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the
10 same or greater benefits at an equivalent cost;

11 (b) the surviving spouse of a member to remain a member of the group as long as the spouse is
12 eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is
13 eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible
14 for equivalent insurance coverage as provided in subsection (1)(a);

15 (c) the surviving children of a member to remain members of the group as long as they are eligible
16 for retirement benefits accrued by the deceased member as provided by law unless they have equivalent
17 coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of
18 a surviving parent or legal guardian.

19 (2) An insurance contract or plan issued under this part must contain the provisions of subsection
20 (1) for remaining a member of the group and also must permit:

21 (a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);

22 (b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and

23 (c) continued membership in the group by anyone eligible under the provisions of this section,
24 notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.

25 (3) (a) A state insurance contract or plan must contain provisions that permit a legislator to remain
26 a member of the state's group plan until the legislator becomes eligible for medicare under the federal Health
27 Insurance for the Aged Act if the legislator:

28 (i) terminates service in the legislature and is a vested member of a state retirement system

1 provided by law; and

2 (ii) notifies the department of administration in writing within 90 days of the end of the legislator's
3 legislative term.

4 (b) A former legislator may not remain a member of the group plan under the provisions of
5 subsection (3)(a) if the person:

6 (i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or

7 (ii) is employed and, by virtue of that employment, is eligible to participate in another group plan
8 with substantially the same or greater benefits at an equivalent cost.

9 (c) A legislator who remains a member of the group under the provisions of subsection (3)(a) and
10 subsequently terminates membership may not rejoin the group plan unless the person again serves as a
11 legislator.

12 (4) (a) A state insurance contract or plan must contain provisions that permit continued
13 membership in the state's group plan by a member of the judges' retirement system who leaves judicial office
14 but continues to be an inactive vested member of the judges' retirement system as provided by 19-5-301. The
15 judge shall notify the department of administration in writing within 90 days of the end of the judge's judicial
16 service of the judge's choice to continue membership in the group plan.

17 (b) A former judge may not remain a member of the group plan under the provisions of this
18 subsection (4) if the person:

19 (i) is a member of a plan with substantially the same or greater benefits at an equivalent cost;

20 (ii) is employed and, by virtue of that employment, is eligible to participate in another group plan
21 with substantially the same or greater benefits at an equivalent cost; or

22 (iii) becomes eligible for medicare under the federal Health Insurance for the Aged Act.

23 (c) A judge who remains a member of the group under the provisions of this subsection (4) and
24 subsequently terminates membership may not rejoin the group plan unless the person again serves in a
25 position covered by the state's group plan.

26 (5) A person electing to remain a member of the group under subsection (1), (2), (3), or (4) shall
27 pay the full premium for coverage and for that of the person's covered dependents.

28 (6) An insurance contract or plan issued under this part that provides for the dispensing of

1 prescription drugs by an out-of-state mail service pharmacy, as defined in 37-7-702:

2 (a) must permit any member of a group to obtain prescription drugs from a pharmacy located in
3 Montana that is willing to match the price charged to the group or plan and to meet all terms and conditions,
4 including the same professional requirements that are met by the mail service pharmacy for a drug, without
5 financial penalty to the member; and

6 (b) may only be with an out-of-state mail service pharmacy that is registered with the board under
7 Title 37, chapter 7, part 7, and that is registered in this state as a foreign corporation.

8 (7) An insurance contract or plan issued under this part must include coverage for:

9 (a) treatment of inborn errors of metabolism, as provided for in 33-22-131;

10 (b) therapies for Down syndrome, as provided in 33-22-139;

11 (c) treatment for children with hearing loss as provided in 33-22-128(1) and (2);

12 (d) the care and treatment of mental illness in accordance with the provisions of Title 33, chapter
13 22, part 7; ~~and~~

14 (e) telehealth services, as provided for in 33-22-138; and

15 (f) refills of prescription eyedrops as provided in [section 1].

16 (8) (a) An insurance contract or plan issued under this part that provides coverage for an individual
17 in a member's family must provide coverage for well-child care for children from the moment of birth through 7
18 years of age. Benefits provided under this coverage are exempt from any deductible provision that may be in
19 force in the contract or plan.

20 (b) Coverage for well-child care under subsection (8)(a) must include:

21 (i) a history, physical examination, developmental assessment, anticipatory guidance, and
22 laboratory tests, according to the schedule of visits adopted under the early and periodic screening, diagnosis,
23 and treatment services program provided for in 53-6-101; and

24 (ii) routine immunizations according to the schedule for immunization recommended by the
25 advisory committee on immunization practices of the U.S. department of health and human services.

26 (c) Minimum benefits may be limited to one visit payable to one provider for all of the services
27 provided at each visit as provided for in this subsection (8).

28 (d) For purposes of this subsection (8):

1 (i) "developmental assessment" and "anticipatory guidance" mean the services described in the
2 Guidelines for Health Supervision II, published by the American academy of pediatrics; and

3 (ii) "well-child care" means the services described in subsection (8)(b) and delivered by a
4 physician or a health care professional supervised by a physician.

5 (9) Upon renewal, an insurance contract or plan issued under this part under which coverage of a
6 dependent terminates at a specified age must continue to provide coverage for any dependent, as defined in
7 the insurance contract or plan, until the dependent reaches 26 years of age. For insurance contracts or plans
8 issued under this part, the premium charged for the additional coverage of a dependent, as defined in the
9 insurance contract or plan, may be required to be paid by the insured and not by the employer.

10 (10) Prior to issuance of an insurance contract or plan under this part, written informational
11 materials describing the contract's or plan's cancer screening coverages must be provided to a prospective
12 group or plan member.

13 (11) The state employee group benefit plans and the Montana university system group benefits
14 plans must provide coverage for hospital inpatient care for a period of time as is determined by the attending
15 physician and, in the case of a health maintenance organization, the primary care physician, in consultation
16 with the patient to be medically necessary following a mastectomy, a lumpectomy, or a lymph node dissection
17 for the treatment of breast cancer.

18 (12) (a) The state employee group benefit plans and the Montana university system group benefits
19 plans must provide coverage for outpatient self-management training and education for the treatment of
20 diabetes. Any education must be provided by a licensed health care professional with expertise in diabetes.

21 (b) Coverage must include a \$250 benefit for a person each year for medically necessary and
22 prescribed outpatient self-management training and education for the treatment of diabetes.

23 (c) The state employee group benefit plans and the Montana university system group benefits
24 plans must provide coverage for diabetic equipment and supplies that at a minimum includes insulin, syringes,
25 injection aids, devices for self-monitoring of glucose levels (including those for the visually impaired), test strips,
26 visual reading and urine test strips, one insulin pump for each warranty period, accessories to insulin pumps,
27 one prescriptive oral agent for controlling blood sugar levels for each class of drug approved by the United
28 States food and drug administration, and glucagon emergency kits.

(d) Nothing in subsection (12)(a), (12)(b), or (12)(c) prohibits the state or the Montana university group benefit plans from providing a greater benefit or an alternative benefit of substantially equal value, in which case subsection (12)(a), (12)(b), or (12)(c), as appropriate, does not apply.

(e) Annual copayment and deductible provisions are subject to the same terms and conditions applicable to all other covered benefits within a given policy.

(f) This subsection (12) does not apply to disability income, hospital indemnity, medicare supplement, accident-only, vision, dental, specific disease, or long-term care policies offered by the state or the Montana university system as benefits to employees, retirees, and their dependents.

(13) (a) The state employee group benefit plans and the Montana university system group benefits plans that provide coverage to the spouse or dependents of a peace officer as defined in 45-2-101, a game warden as defined in 19-8-101, a firefighter as defined in 19-13-104, or a volunteer firefighter as defined in 19-17-102 shall renew the coverage of the spouse or dependents if the peace officer, game warden, firefighter, or volunteer firefighter dies within the course and scope of employment. Except as provided in subsection (13)(b), the continuation of the coverage is at the option of the spouse or dependents. Renewals of coverage under this section must provide for the same level of benefits as is available to other members of the group. Premiums charged to a spouse or dependent under this section must be the same as premiums charged to other similarly situated members of the group. Dependent special enrollment must be allowed under the terms of the insurance contract or plan. The provisions of this subsection (13)(a) are applicable to a spouse or dependent who is insured under a COBRA continuation provision.

(b) The state employee group benefit plans and the Montana university system group benefits plans subject to the provisions of subsection (13)(a) may discontinue or not renew the coverage of a spouse or dependent only if:

(i) the spouse or dependent has failed to pay premiums or contributions in accordance with the terms of the state employee group benefit plans and the Montana university system group benefits plans or if the plans have not received timely premium payments;

(ii) the spouse or dependent has performed an act or practice that constitutes fraud or has made an intentional misrepresentation of a material fact under the terms of the coverage; or

(iii) the state employee group benefit plans and the Montana university system group benefits

1 plans are ceasing to offer coverage in accordance with applicable state law.

2 (14) The state employee group benefit plans and the Montana university system group benefits
3 plans must comply with the provisions of 33-22-153.

4 (15) An insurance contract or plan issued under this part and a group benefits plan issued by the
5 Montana university system must provide mental health coverage that meets the provisions of Title 33, chapter
6 22, part 7. (See compiler's comments for contingent termination of certain text.)"

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8 **Section 3.** Section 33-31-111, MCA, is amended to read:

9 **"33-31-111. Statutory construction and relationship to other laws.** (1) Except as otherwise
10 provided in this chapter, the insurance or health service corporation laws do not apply to a health maintenance
11 organization authorized to transact business under this chapter. This provision does not apply to an insurer or
12 health service corporation licensed and regulated pursuant to the insurance or health service corporation laws
13 of this state except with respect to its health maintenance organization activities authorized and regulated
14 pursuant to this chapter.

15 (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority
16 or its representatives is not a violation of any law relating to solicitation or advertising by health professionals.

17 (3) A health maintenance organization authorized under this chapter is not practicing medicine and
18 is exempt from Title 37, chapter 3, relating to the practice of medicine.

19 (4) This chapter does not exempt a health maintenance organization from the applicable certificate
20 of need requirements under Title 50, chapter 5, parts 1 and 3.

21 (5) This section does not exempt a health maintenance organization from the prohibition of
22 pecuniary interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through
23 33-3-704. A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and
24 33-3-701 through 33-3-704.

25 (6) This section does not exempt a health maintenance organization from:

26 (a) prohibitions against interference with certain communications as provided under Title 33,
27 chapter 1, part 8;

28 (b) the provisions of Title 33, chapter 22, parts 7 and 19;

- 1 (c) the requirements of 33-22-134 and 33-22-135;
- 2 (d) network adequacy and quality assurance requirements provided under chapter 36; or
- 3 (e) the requirements of Title 33, chapter 18, part 9.
- 4 (7) Other chapters and provisions of this title apply to health maintenance organizations as follows:
- 5 Title 33, chapter 1, parts 6, 12, and 13; 33-2-1114; 33-2-1211 and 33-2-1212; Title 33, chapter 2, parts 13, 19,
- 6 23, and 24; 33-3-401; 33-3-422; 33-3-431; Title 33, chapter 3, part 6; Title 33, chapter 10; Title 33, chapter 12;
- 7 33-15-308; Title 33, chapter 17; Title 33, chapter 19; 33-22-107; 33-22-128; 33-22-129; 33-22-131; 33-22-136
- 8 through 33-22-139; 33-22-141 and 33-22-142; 33-22-152 and 33-22-153; [section 1]; 33-22-156 through 33-22-
- 9 159; 33-22-180; 33-22-244; 33-22-246 and 33-22-247; 33-22-514 and 33-22-515; 33-22-521; 33-22-523 and
- 10 33-22-524; 33-22-526; and Title 33, chapter 32."

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12 **Section 4.** Section 33-35-306, MCA, is amended to read:

13 **"33-35-306. Application of insurance code to arrangements.** (1) In addition to this chapter, self-

14 funded multiple employer welfare arrangements are subject to the following provisions:

- 15 (a) 33-1-111;
- 16 (b) Title 33, chapter 1, part 4, but the examination of a self-funded multiple employer welfare
- 17 arrangement is limited to those matters to which the arrangement is subject to regulation under this chapter;
- 18 (c) Title 33, chapter 1, part 7;
- 19 (d) Title 33, chapter 2, parts 23 and 24;
- 20 (e) 33-3-308;
- 21 (f) Title 33, chapter 7;
- 22 (g) Title 33, chapter 18, except 33-18-242;
- 23 (h) Title 33, chapter 19;
- 24 (i) 33-22-107, 33-22-128, 33-22-131, 33-22-134, 33-22-135, 33-22-138, 33-22-139, 33-22-141,
- 25 33-22-142, 33-22-152, ~~and 33-22-153~~, and [section 1];
- 26 (j) 33-22-512, 33-22-515, 33-22-525, and 33-22-526;
- 27 (k) Title 33, chapter 22, part 7; and
- 28 (l) 33-22-707.

1 (2) Except as provided in this chapter, other provisions of Title 33 do not apply to a self-funded
2 multiple employer welfare arrangement that has been issued a certificate of authority that has not been
3 revoked."

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5 NEW SECTION. **Section 5. Codification instruction.** [Section 1] is intended to be codified as an

6 integral part of Title 33, chapter 22, part 1, and the provisions of Title 33, chapter 22, part 1, apply to [section 1].

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8 NEW SECTION. **Section 6. Effective date.** [This act] is effective January 1, 2024.

9 - END -